

**APR 10 2006**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANCENCION ENRIQUEZ-DEGANTE,

Defendant - Appellant.

No. 05-30295

D.C. No. CR-04-02184-WFN

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of Washington  
Wm. Fremming Nielsen, Senior District Judge, Presiding

Submitted April 5, 2006<sup>\*\*</sup>

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Ancencion Enriquez-Degante appeals from his 41-month sentence imposed following a guilty plea to being an alien in the United States after deportation, in

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and affirm.

Enriquez-Degante contends that the district court erred by failing to consider facts which warranted a downward departure based on cultural assimilation and extraordinary physical, sexual, and emotional abuse. Enriquez-Degante specifically challenges the factual findings made by the district court at sentencing. Factual findings are reviewed for clear error. *See United States v. Walter*, 256 F.3d 891, 894 (9th Cir. 2001). His contention lacks merit. At sentencing, the district court did not find facts contrary to those asserted by Enriquez-Degante in support of his downward departure. Instead, the district court accepted Enriquez-Degante's factual assertions, recognized its discretion to grant a departure, and concluded that Enriquez-Degante's circumstances did not warrant a departure.

**AFFIRMED.**